

O. / Interest 153

1953.



File No. 44 / 53

Legal Dept

G. BRANCH

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Subject:— Opinion on the Interest

O. / Interest 153

File No. 44 / 53

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Office of the R.L.A.

The demand for pyament was made by the Collector of Dharwar on the 3rd July 1952 and he has reported that the amount was paid by the mills and was credited to the Collector's P.L.A. on the 2nd August 1952. This means that the amount was paid within a month which is quite a reasonable period. The mistake remained undetected by the Collector's office for nearly two years and in view of this no court is likely to award any interest even if suit is filed for its recovery.

o/c Sd/- P.M.L.

28/1

U.R. to C.S.D, No. G-64 dated the 29th January '53.

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Office of the R.L.A.

Under the agreement the delivery was to be taken on cash payment. As there was no question of taking delivery on credit basis, no provision has been made in the agreement for charging interest. The Collector reports that in some cases payment was made within a short time where in some cases payments were delayed for more than a year. No demand for interest was made by the Collector as required under section 1 of the interest Act, 1939. In the circumstances, it does not seem that interest can be legally recovered.

However as pointed out by the Civil Supplies Department accounts section, the margin of Rs.2-1-0 per bag which was allowed to the wholesalers contained an element of annas five as interest and charges. There is no objection to bring this to the notice of the wholesalers and ask them to pay interest at the rate of annas five per bag. It is doubtful whether the claim is legally sustainable.

o/c

Sd/-P.M.L.

15-10

Remembrancer of Legal Affairs.

U.R. to C.S.D., No. G- 642, dt. 15th October 1953.

C.G.R./1-8 /C 5

Office of the R.L.A.

In this case there is no agreement or statutory provision for claiming interest. The case also does not strictly fall under section 1 of the interest Act. But the principle underlying that section would apply. Interest can be claimed from the date from which the demand of interest was made viz. 14th March 1951. In the alternative, a large sum of money was utilised by the mill and prompt despatches were not made as agreed and therefore as advised by the District Government Pleader interest by way of damages may be claimed. It is, however a matter for consideration whether this litigation should be launched.

o/c Sd/- P.M.L.

19/10.

Remembrancer of Legal Affairs.

U.R. to C.S.D., No. G- 643 dt. 20th October '53.

C G.R./1-8 /C 5

Legal Department.

The question for consideration is whether the claim of Government against Messrs. Podar Trading Company for interest is sound and whether interest should be claimed from the date of demand i.e. 10th July 1952 or from the date of the termination of the agreement i.e. 1st April 1950.

It seems there is no provision in the agreement for recovery of interest on the outstanding amounts. Clause 23 of the agreement refers to recovery as arrears of land revenue. Under clause 24, if there is any difference between the parties regarding the interpretation or construction of the agreement, the same was to be referred to the Director of Civil Supplies whose decision was to be binding on both the parties. The present dispute cannot however strictly come under the agreement.

Under clause 13 of the agreement, the State Textile Controller at his option could have appropriated the whole or any part of the deposit towards satisfaction of any sums due under the agreement. As there was delay on either side in respect of making up the final settlement, the deposit of Rs. 1,05,000/- was returned to Messrs. Podar Trading Company at their request on their giving a categorical assurance that "whatever dues are realisable by Government would be paid by them." The Company should have therefore made a payment of Rs.25,000/- when demanded by Government. The Company has benefited by the premature return of the deposit by earning interest thereon and therefore in fairness the Company cannot refuse interest to Government. The interest may however be recovered from the date of demand and not from the date of the termination of agreement. (See section 1 of the Indian Interest Act, 1918).

o/c Sa/-

Secretary to Government.

U.R. to F.A. & Addl. Secy.,

C.S.D., No.G- 551 dt. 11th

September 1953.

C.G.R./1-8 /C 5

Office of the R.L.A.

The Question for consideration is whether under the terms of the agreement recovery of interest on over due interest can be made.

Clause 4 of the Financial agreement provides as follows:

"The Borrower shall (Subject to the adjustment in respect of interest payable to it on the said deposit of rupees five Lakhs) pay to the Government interest at the rate of 4 per cent per annum on all the net balances from day to day outstanding against the Borrower. The interest shall be payable with monthly rests. In the event of the termination of this Agreement by efflux of time or otherwise howsoever the Borrower shall forthwith pay to the Government the balance then remaining unpaid with interest thereon at 4 per cent, per annum as hereinbefore provided until the date of such payment."

It is true that there is no express provision in the agreement regarding charging of compound interest.

But clause 4 provides that the interest shall be payable with monthly rests. This means that the interest becomes due monthly and if it is not paid it becomes part of the ~~cp~~ capital i.e. part of the balance. The word 'rest' has been defined at p. 1547 of Black's Law Dictionary as follows:-

"Rests are periodical balancing of accounts (particularly in mortgages and trust accounts) made for the purpose of converting interest into principal and charging party liable thereon with compound interest."

Under clause 4 of the Financial Agreement, the Union is therefore bound to pay interest on the amount of interest becoming payable at the end of every month. The remedy provided under clause 6 of the said agreement is an additional remedy and does not operate to exclude the right of Government under clause 4 to charge interest on overdue interest. The interest is payable on its becoming due under clause 4 of the agreement and not on presentation of bills thereof by the State Textile Controller.

Sd/-

Remembranco of Legal Affairs.

U.R. to C.S.D.No.G-656 dt. 23rd Oct. '53.

Sd/
GIB

22/10/53